**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**R. S .A. No. 2462 of 2004**
Date of decision: 5.11.2007

**Virender Kumar** **...Appellant**

**Versus**

**Tehsildar (Sales), Kaithal and others** **...Respondents**

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL**

Present: Mr. A.P. Bhandari, Advocate for the appellant.

Mr. Sunil Mehra, Assistant Advocate General, Haryana
for respondents No.1 and 2.

Mr. Namit Kumar, Advocate for respondent No.3.

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**RAJESH BINDAL, J.**

The plaintiff No. 2 is before this Court against the concurrent findings of fact by both the Courts below whereby he has been non suited.

The claim made for protection of his possession on the plea of the same being continuous and hostile for the last about 40 years.

The issue as to whether the plea of adverse possession is a cause of action to file a suit or not had been gone into by this Court in **Bhim Singh and others Vs. Zile Singh and others 2006 (3) Recent Civil Reports (Civil) 97** wherein it has been answered against the proposition by holding that same is not a cause of action but a defence which can be raised in suit for possession filed by other party.

When the suit itself was not maintainable on the ground of adverse possession,I do not find any substantial question of law arises in the present appeal and the same is dismissed.

**November 05, 2007** **(Rajesh Bindal)**
**Pka** **Judge**